

Initiative Petition For A Law Relative To Patient Safety and Hospital Transparency

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Be it enacted by the People, and by their authority:

SECTION 1. SECTIONS 2 through 4 below, along with section 231 of Chapter 111 of the General Laws, shall hereby be known as “The Patient Safety and Hospital Transparency Act.”

SECTION 2. Chapter 111 of the General Laws is hereby amended by adding the following sections after section 231:

Section 231A. Definitions.

As used in sections 231 through 231K the following words shall have the following meanings:

“Patient assignment”, a person admitted to a facility where a registered nurse accepts responsibility for the patient's direct nursing care. A patient must be assigned to a registered nurse at all times.

“Complaint”, any oral or written communication by a patient, medical professional, facility or any of its employees that a facility has violated any term or condition of this act.


“Facility”, a hospital licensed under section 51 of this chapter, the teaching hospital of the University of Massachusetts medical school, any licensed private or state-owned and state-operated general acute care hospital, an acute psychiatric hospital, an acute care specialty hospital, or any acute care unit within a state operated healthcare facility. This definition shall not include rehabilitation facilities or long-term care facilities.

“Health Care Workforce”, personnel employed by or contracted to work at a facility that have an effect upon the delivery of quality care to patients, including but not limited to registered nurses, licensed practical nurses, unlicensed assistive personnel, service, maintenance, clerical, professional and technical workers, and all other health care workers.

"Nursing care", care which falls within the scope of practice as defined in Section 80B of Chapter 112 of the General Laws or is otherwise encompassed within recognized standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.

“Violation”, any failure by a facility to abide by a term or condition of this act.

“Written Implementation Plan”, a written plan detailing both the maximum number of patients to be assigned at all times to a registered nurse in each of the units enumerated in section 231C as well as concurrently detailing the facility’s plans to ensure that it will implement such limits without diminishing the staffing levels of its health care workforce.

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Section 231B: Concurrently with establishing and enforcing the maximum patient assignment limits enumerated in Section 231C below, each facility shall submit a written implementation plan to the Massachusetts Health Policy Commission certifying that it will implement the patient assignment limits without diminishing the staffing levels of its health care workforce.

Section 231C: It is the right of every patient in a facility to nursing care deemed safe by the registered nurse who has accepted responsibility for his or her care. It is the responsibility of each facility to provide the resources necessary to support the safe patient limits enumerated in this section. The maximum number of patients assigned at all times to a registered nurse in a facility shall not exceed the limits enumerated in this section.

Nothing shall preclude a facility from assigning fewer patients to a registered nurse than the limits enumerated in this section; provided, however, that no such assignment shall result in a reduction in the staffing level of the health care workforce assigned to the facility's patients.

The patient assignment limits shall be as follows:

- a. In all units with step-down/intermediate care patients, the maximum patient assignment of step-down/intermediate patients is three (3). Step-down/intermediate care patients are those patients that require an intermediate level of care between the intensive care unit and general medical surgical unit.
- b. In all units with post anesthesia care (PACU) patients, the maximum patient assignment of PACU patients under anesthesia is one (1). The maximum patient assignment of PACU patients post anesthesia is two (2).
- c. In all units with operating room (OR) patients, the maximum patient assignment of OR patients under anesthesia is one (1). The maximum patient assignment of OR patients post anesthesia is two (2).
- d. In the Emergency Services Department:
 - (1) The maximum patient assignment of critical care or intensive care patients is one (1). A registered nurse may accept a second critical care or intensive care patient if that nurse assesses that each patient's condition is stable.
 - (2) The maximum patient assignment of urgent non-stable patients is two (2). A patient is in an urgent non-stable condition when prompt care of the patient is necessary within fifteen to sixty minutes.

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- (3) The maximum patient assignment of urgent stable patients is three (3). A patient is in an urgent stable condition when prompt care of the patient is necessary but can wait up to three hours if necessary.
 - (4) The maximum patient assignment of non-urgent stable patients is five (5). A patient is in a non-urgent stable condition when the patient has a condition or conditions that need attention, but time is not a critical factor.
- e. In all units with maternal child care patients:
 - (1) The maximum patient assignment of active labor patients, patients with intermittent auscultation for fetal assessment, and patients with medical or obstetrical complications is one (1) patient.
 - (2) The maximum patient assignment during birth and for up to two (2) hours immediately postpartum is one (1) nurse responsible for the mother and, for each baby, one (1) nurse whose sole responsibility is the baby. When the condition of the mother and baby are determined to be stable and the critical elements are met, one (1) nurse may care for both the mother and the baby(ies).
 - (3) The maximum patient assignment during the postpartum period for uncomplicated mothers or babies is six (6), which shall be comprised of either six (6) mothers or babies, three (3) couplets of mothers and babies, or, in the case of multiple babies, not more than a total of six (6) patients. As used in this subsection, couplet shall mean one (1) mother and one (1) baby.
 - (4) The maximum patient assignment of intermediate care or continuing care babies is two (2) babies.
 - (5) The maximum patient assignment of well-baby patients is six (6) babies.
- f. In all units with pediatric patients, the maximum patient assignment of pediatric patients is four (4).
- g. In all units with psychiatric patients, the maximum patient assignment of psychiatric patients is five (5).
- h. In all units with medical, surgical and telemetry patients, the maximum patient assignment of medical, surgical and telemetry patients is four (4).
- i. In all units with observational/outpatient treatment patients, the maximum patient assignment of observational/outpatient treatment patients is four (4).

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Such patient acuity tool and information contained and documented therein shall be part of the patient medical record.

Section 231G: This act shall not be construed to impair any collective bargaining agreement or any other contract in effect as of the effective date of this act, but shall have full force and effect upon the earliest expiration date of any such collective bargaining agreement or other contract. Nothing in this act shall prevent the validity or enforcement of terms in a collective bargaining agreement or other contract that provides for a lower number of patients assigned to a nurse than the number mandated by the patient assignment limits set forth in this act.

Section 231H: Enforcement. The Massachusetts Health Policy Commission may conduct inspections of facilities to ensure compliance with the terms of this act. A facility's failure to adhere to the patient assignment limits set forth in Section 231C, as adjusted per the requirements set forth in Sections 231D and 231F, shall be reported by the Massachusetts Health Policy Commission to the Attorney General for enforcement. The Attorney General may bring a Superior Court action seeking injunctive relief and civil penalties in the amount of up to twenty-five thousand dollars per violation. A separate and distinct violation, for which the facility shall be subject to a civil penalty of up to twenty five thousand dollars, shall be deemed to have been committed on each day during which a violation continues following notice to the facility. Upon written notice by the Health Policy Commission that a complaint has been made or a violation has occurred, a facility receiving such notice shall submit a written compliance plan to the Commission that demonstrates the manner in which the facility will ensure future compliance with all of the provisions of this act within the time frame required by the Commission. No employee shall be disciplined or retaliated against in any manner for complying with the patient limits set forth in section 231C above, and any such employee so disciplined or retaliated against shall be entitled to the remedies provided in section 185(d) of chapter 149 regardless of whether the employee satisfies any other terms or conditions set forth in section 185 of chapter 149. The requirements of this act, and its enforcement, shall be suspended during a state or nationally declared public health emergency.

Section 231I: Every facility shall post in a conspicuous place or places on its premises, including within each unit, patient room, and waiting areas, a notice to be prepared or approved by the Massachusetts Health Policy Commission that is easily readable in lay terms in English and in other languages determined by the commission setting forth excerpts of this act, including all of the patient assignment limits set forth in Section 231C, along with the manner in which to report violations and such other relevant information which the commission deems necessary to explain the requirements of this act. Any facility subject to this act which refuses to comply with the provisions of this section shall be punished by a civil penalty of not less than two hundred and fifty dollars and not more than two thousand five hundred dollars for each day the facility is not in compliance. The provisions of this section shall be enforced by the Attorney General.

Section 231J: The Massachusetts Health Policy Commission shall establish a toll-free telephone number where complaints against facilities can be reported, and a public website where complaints, certification and compliance plans, and violations shall appear and be updated at least quarterly for

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each facility. The toll-free telephone number and website location shall be included in all notices prepared and posted pursuant to Section 231I above.

Section 231K. It is in the public interest to have access to a transparent, detailed, and comprehensive record of the financial health of each facility that accepts funds from the Commonwealth to provide healthcare to its residents. Each facility that accepts funds from the Commonwealth shall report annually to the Massachusetts Health Policy Commission all financial assets owned by the facility, along with the assets of any holding company and any and all parent, subsidiary, or affiliated companies, including those held in financial institutions outside the United States or invested outside the United States. Unless prohibited by other law, the Massachusetts Health Policy Commission shall make this information public within seven calendar days of receipt.

SECTION 2: Severability. The provisions of this act are severable, such that, if any clause, sentence, paragraph or section, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder of any clause, sentence, paragraph or section thereof and shall be confined in its operation to such clause, sentence, paragraph, section or application adjudged invalid; provided further, that any such clause, sentence, paragraph, section or application deemed invalid shall be reformed and construed such that it would be valid to the maximum extent permitted.

SECTION 3: This act shall take effect on January 1, 2019.

Pursuant to Article 48 of the articles of amendment of the Constitution of the Commonwealth of Massachusetts, as amended by Article 74, the following duly qualified voters hereby submit the foregoing measure for approval by the People.

SIGNATURE

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ADDRESS

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